

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOSEPH LAMAR DIXON,

Plaintiff,

v.

FARMINGTON CORRECTIONAL
CENTER, et al.,

Defendants.

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No. 4:16-CV-1463 CEJ

MEMORANDUM AND ORDER

Plaintiff, a prisoner, seeks leave to proceed in forma pauperis in this civil action under 42 U.S.C. § 1983. Having reviewed plaintiff's financial information, the Court assesses a partial initial filing fee of \$1.50, which is twenty percent of his average monthly deposit. *See* 28 U.S.C. § 1915(b).

Standard of Review

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim for relief, a complaint must plead more than "legal conclusions" and "[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A plaintiff must demonstrate a plausible claim for relief, which is more than a "mere possibility of misconduct." *Id.* at 679. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* at 678. Determining whether a complaint states a plausible claim for relief is a

context-specific task that requires the reviewing court to draw on its judicial experience and common sense. *Id.* at 679.

When reviewing a complaint under 28 U.S.C. § 1915(e), the Court accepts the well-pled facts as true. Furthermore, the Court liberally construes the allegations.

The Complaint

Plaintiff brings this action against the Farmington Correctional Center (FCC) and Brandon Moss, who was a correctional officer there. Plaintiff says Moss gave him a conduct violation for “jumping the line.” He claims he was only attempting to get around another inmate who was in his way. He also says Moss called him “boy,” a racist slur.

Discussion

Plaintiff’s allegations against Moss do not state a plausible claim under § 1983. *See Burton v. Livingston*, 791 F.2d 97, 99 (8th Cir. 1986) (“mere words, without more, do not invade a federally protected right.”); *Glick v. Sargent*, 696 F.2d 413, 415 (8th Cir. 1983) (per curiam) (“Unless an infringement upon constitutional or fundamental rights is involved, the courts are reluctant to interfere with a prison’s internal discipline methods.”).

A suit against FCC is, in effect, a suit against the State of Missouri. The State of Missouri, however, is absolutely immune from liability under § 1983. *See Will v. Michigan Dept. of State Police*, 491 U.S. 58, 63 (1989). Therefore, the complaint must be dismissed as frivolous.

Further, the Court finds that an appeal from the dismissal would not be taken in good faith. Therefore, no certificate of appealability will issue.

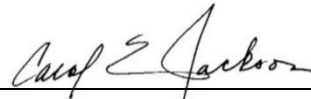
Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [ECF No. 2] is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff must pay an initial filing fee of \$1.50 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.¹

An Order of Dismissal will be filed separately.

Dated this 19th day of September, 2016.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

¹ Prisoners must pay the full amount of the \$350 filing fee. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner will deduct the payments and forward them to the Court each time the amount in the account exceeds \$10. 28 U.S.C. § 1915(b)(2).